

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESAL PRICE	)	
LITIGATION	)	MDL No. 1456
	)	Civil Action No. 01-12257-PBS
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<b>THIS DOCUMENT RELATES TO:</b>	)	Hon. Patti B. Saris
	)	
<i>United States of America, ex rel. Ven-a-Care</i>	)	Magistrate Judge Marianne B. Bowler
<i>of the Florida Keys, Inc., v. Abbott</i>	)	
<i>Laboratories, Inc.,</i>	)	
CIVIL ACTION NO. 06-CV-11337-PBS	)	

## EXHIBIT D

TO THE UNITED STATES' OBJECTIONS TO JULY 19,  
2007 ORDER BY MAGISTRATE JUDGE BOWLER

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

**THIS DOCUMENT RELATES TO:**

*United States of America ex rel. Ven-a-Care of the  
Florida Keys, Inc., v. Abbott Laboratories, Inc.*

CIVIL ACTION NO. 06-11337-PBS

MDL No. 1456  
Civil Action No. 01-12257-PBS

Hon. Patti Saris

**ABBOTT LABORATORIES, INC.'S RESPONSES TO THE UNITED STATES'  
FIRST SET OF INTERROGATORIES**

Defendants Abbott Laboratories, Inc. ("Abbott") responds to Plaintiff, the United States' ("Plaintiff") First Set of Interrogatories ("Interrogatories") as follows:

**GENERAL OBJECTIONS**

1. Abbott objects to these Interrogatories as untimely and unduly burdensome to the extent they purport to require Abbott to search for information going back twenty-one years. Plaintiff unsealed its case against Abbott in 2006 after having the suit under seal for more than eleven years. Plaintiff's eleven-year delay in unsealing the suit has created an unnecessary and unreasonable burden on Abbott. Plaintiff's unreasonable delay also makes it possible that evidence responsive to these Interrogatories is no longer available.

2. Abbott objects to these Interrogatories as untimely and unfair to the extent they ask Abbott to address information or situations that were not "disclosed" or communicated to unidentified Medicare and Medicaid officials. Such Interrogatories ask Abbott to "prove the negative" and are improper subjects for Interrogatories, particularly at the early stage of discovery. Plaintiff's eleven-year delay in unsealing the suit also makes it possible that such

**RESPONSE:** In addition to its General Objections, Abbott objects to this Interrogatory because it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Abbott further objects to this Interrogatory to the extent it seeks information that is protected by the attorney-client and/or the work-product doctrine.

**INTERROGATORY NO. 12:** Identify all employees, agents or outside firms involved with the determination and/or reporting of the AWP, WAC, Direct Price, List Price, AMP or AMP for Your Pharmaceuticals to the Price Publications or any State Medicaid program.

**RESPONSE:** In addition to its General Objections, Abbott objects to this Interrogatory because it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Abbott further objects to the extent this Interrogatory suggests that Abbott determines and/or reports an AWP and to the extent it seeks information outside of Abbott's custody, care and/or control. Abbott further objects to this Interrogatory to the extent it seeks information regarding Abbott's calculation of AMP, which is not at issue in this case and is determined by federal law.

Subject to and without waiving its objections, Abbott states that it has produced or will produce communications with the pricing compendia and with the Texas Vendor Drug Program relating to the Subject Drugs during the Relevant Claim Period.

**INTERROGATORY NO. 13:** Identify all individuals, whether Abbott employees or not, involved with reporting or making any representations regarding the AWP, WAC, Direct Price, List Price, AMP or AMP or any other reported price for Your Pharmaceuticals to the State of Texas' Vendor Drug Program.

**RESPONSE:** In addition to its General Objections, Abbott objects to this Interrogatory because it is overly broad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence and to the extent it seeks information that is outside of Abbott's custody, care and/or control. Abbott further objects to the extent this Interrogatory suggests that Abbott determines and/or reports an AWP and to the